



## INVOLUNTARY GUILTY PLEA – GENERAL STANDARD

To ensure that a criminal defendant receives due process before pleading guilty and surrendering fundamental liberties, a trial court must confirm that the plea is knowing, intelligent, and voluntary (*see People v Hill*, 9 NY3d 189, 191-192 [2007]; *People v Louree*, 8 NY3d 541, 544-545 [2007]; *People v Ford*, 86 NY2d 397, 402-403 [1995]). Trial courts have “a vital responsibility” to ensure that a defendant who pleads guilty makes a knowing, voluntary and intelligent choice among alternative courses of action (*People v Harris*, 61 NY2d 9, 19 [1983]; *see People v Conceicao*, 26 NY3d 375, 382 [2015]; *People v Catu*, 4 NY3d 242, 245 [2005]).

An involuntary guilty plea must be vacated (*see People v Louree*, 8 NY3d 541, 544-546 [2007]). In reviewing the voluntariness of a plea, courts must consider the record and the circumstances of the plea as a whole (*see People v Sougou*, 26 NY3d 1052, 1055 [2015]).

Factors to be considered include the seriousness of the crime; the competency, experience and actual participation by counsel; the rationality of the plea bargain; the pace of the proceedings; and whether the defendant consulted with counsel about the constitutional consequences of the plea (*see People v Conceicao*, 26 NY3d 375, 383 [2015]). The court must also evaluate the defendant’s competence, prior

experience with the criminal justice system, and understanding of the plea agreement and potential sentencing exposure (*see People v Garcia*, 92 NY2d 869, 870 [1998]; *People v McDonnell*, 214 AD3d 826, 827 [2d Dept 2023]).

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